

MAINE STATE LEGISLATURE

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February 21, 1967

James S. Erwin, Attorney General

Leon V. Walker, Jr., Assistant

Incompatibility of Offices

You have requested an opinion whether a member of the Legislature may also serve as Chairman of the Maine Potato Commission.

36 M.R.S.A. § 4653 provides that the members of the Commission shall serve without pay except the chairman, who shall receive a per diem of \$15 when in the performance of his duties.

M.R.S.A. Const., Article IV, Pt. 3, § 11, provides that no person holding any office of profit under this State shall have a seat in either House during his continuing in such office.

Since the chairman of the Commission receives a statutory per diem, it would seem that he could not at the same time be a member of the Legislature.

There are several opinions of the Attorney General to this effect. One, dated February 21, 1951, held that a State Senator could not be a member of the State Real Estate Commission. Another, dated December 9, 1960, held that a person could not at the same time be a legislator and a member of the Board of Pharmacy. A third (1961-62 Atty. Gen. Rep. 121) held that no person employed in the executive department may hold office as a legislator.

LVWJr:H

Leon V. Walker, Jr.